



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

November 16, 2021

**VIA EMAIL**

Holland Shepherd  
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Mining Act Reclamation Program  
New Mexico Mining and Mineral Division  
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Santa Fe, NM 87505

Kurt Vollbrecht  
Program Manager  
Mining Environmental Compliance Section  
New Mexico Environment Department  
1190 St. Francis Drive, Suite N4050  
Santa Fe, New Mexico 87505

Re: Tronox Navajo Area Uranium Mines Allocation Strategy

Dear Mr. Shepherd and Mr. Vollbrecht:

Thank you for the State of New Mexico's November 5, 2021, letter to the U.S. Environmental Protection Agency (USEPA) providing written comments to the draft Tronox Navajo Area Uranium Mines (Tronox NAUMs) Draft Allocation Strategy. The draft strategy was presented to representatives of New Mexico Environment Department, New Mexico Mining and Minerals Division, Navajo Nation EPA and Navajo Nation Department of Justice on October 13, 2021.

During the November 9, 2021, Tronox NAUM Regulatory Stakeholder Meeting, USEPA presented initial responses to the state questions and addressed follow-up questions from New Mexico and Navajo Nation. Enclosed is a full response to the state's questions. Also enclosed is a copy of the EPA's responses to the questions submitted by Navajo Nation EPA.

I thank you for the state's continued partnership with the USEPA and the Navajo Nation in assessing and developing cleanup strategies to address the 54 abandoned uranium mines under the Tronox settlement. If you have any questions, please contact Mr. Kevin Shade, Grants Mining District Coordinator, at [shade.kevin@epa.gov](mailto:shade.kevin@epa.gov) or (214) 665-2708. Should you have any legal questions, please contact Mrs. Pam Travis, Site Attorney, at [travis.pamela@epa.gov](mailto:travis.pamela@epa.gov) or (214) 665-8056.

Sincerely,

Susan D. Webster  
Chief  
Assessment and Enforcement Branch

Enclosures

## Enclosure 1

### U.S. Environmental Protection Agency's Response to the State of New Mexico Submitted Questions on the Draft Tronox Allocation Strategy

Question 1: "If EPA proceeds with an allocation strategy that bases capital cost estimates on remedies involving off-site disposal of waste from Region 9 sites, the Agencies request a more detailed plan from EPA regarding EPA's near-term actions to pursue remaining PRPs to accelerate cleanup at the Region 6 sites, which will receive a smaller overall portion of the Tronox settlement funds under such a strategy."

EPA Response: Under the draft Allocation Strategy, EPA will pursue the PRPs to implement or contribute to the selected remedy at the Tronox Navajo Area Uranium Mines (Tronox NAUMs). There are several steps EPA Region 6 must take before cleanups can begin for Tronox NAUMs located in Ambrosia Lake. Some of these steps are required by the Superfund law and the National Contingency Plan (NCP) and other steps are necessitated by agency policy and guidance. Due to the potential costs of the alternatives being evaluated by EPA Region 6, an internal review process which includes the EPA Administrator is a policy requirement. This process may take at a minimum 6 months. Upon completion of the review, the Region must prepare and release to the public the final Engineering Evaluation / Cost Analyses, hold a minimum 30-day public comment period, and issue the Action Memo which is the decision document for Non-Time Critical Removal Actions. Parallel to these administrative steps, EPA continues to follow its Enforcement First Policy and is constantly reviewing liability information provided to the Agency or identified by enforcement staff. Negotiations would begin with the issuance of Special Notice to the PRPs. The complexity and size of the site could result in lengthy negotiations but EPA could elect to use its administrative authority to issue orders.

Question 2: "The Agencies request more detail on the cost allocation and how the percentages depicted on the pie chart in slide 10 were determined."

EPA Response: Non-Time Critical Removal Costs are based on the information found in the four Region 6 Alternative Analysis Memos (AAMs) shared with the State of New Mexico and Navajo Nation in 2020 and the Region 9 AAMs shared in 2021 and supporting documentation to the AAMs. Intramural costs are based on best professional judgment of the amount of EPA oversight necessary to oversee implementation of the remedies by the performing parties. Extramural costs are based on historical data for the grants and cooperative agreements and based on EPA guidance and best professional judgment. A list of guidance used is found in the References section of each Alternative Analysis Memo.

Question 3: The Agencies would like to see information that provides the basis for the response costs allocated to EPA (the Intramural and Extramural pie chart slices on page 10 of the presentation). Is there a component of these costs that would be more appropriately included within each of the individual site costs and/or recovered from non-Tronox PRPs?

EPA Response: The strategy does contemplate using the special account for EPA intramural and extramural costs. EPA Special Account Guidance (<https://www.epa.gov/enforcement/superfund-special-accounts>) allows for the Agency to use Special Accounts to incentivize PRPs to enter into settlements with EPA to perform the work. However, the agency has not made a final decision on how the special account funds will be disbursed.